

# BRAE CORPORATION

RECORDATION NO. 10630-*P* Filed 1425

October 13, 1980

OCT 15 1980 - 9 40 AM

INTERSTATE COMMERCE COMMISSION

0-289A013

Ms. Agatha Mergenovich, Secretary  
Interstate Commerce Commission  
Room 2215, 12th & Constitution  
Washington, D.C. 20423

No. 1  
Date OCT 15 1980  
Fee \$ 10.00

ICC Washington, D. C.

Dear Ms. Mergenovich:

Enclosed for filing and recordation pursuant to the provisions of 49 U. S. C. §11303 are five copies of the following document:

FIRST SUPPLEMENT, dated as of July 15, 1980, to the Equipment Trust Agreement, dated as of June 1, 1979, between Morgan Guaranty Trust Company of New York, as Trustee, and BRAE Corporation.

It relates to 600 70-ton XM and XP boxcars marked as follows:

UO 1500-1549, inclusive  
BMS 00201-00500, inclusive  
CLC 3401-3500, inclusive  
SBVR 2001-2050, inclusive  
AA 5100-5199, inclusive

The names and addresses of the parties to the transaction evidenced by the document described above are as follows:

Lessor: Brae Corporation  
Suite 1760, Three Embarcadero Center  
San Francisco, California 94111

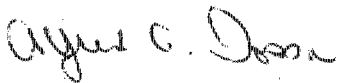
Lender: Morgan Guaranty Trust Company of New York  
30 West Broadway  
New York, New York 10015

It is requested that this document be filed and recorded under the names and parties as set forth above. In view of the fact that it relates to the Equipment Trust Agreement, previously assigned recordation number 10630 (and filed July 16, 1979 at 3:25 p.m.), we request that it be assigned the next available letter designation under that primary number, which we believe to be "P" 10631.

I enclose a check for \$10.00 for the required recordation fee.

Please return: (1) your letter acknowledging the filing, (2) a receipt for the \$10.00 filing fee paid by check drawn on this firm, (3) the enclosed copies of this letter, and (4) four copies of the document, retaining one for your files - - all stamped with your official recordation information.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Alfred C. Dossa".

Alfred C. Dossa, Esq.  
Vice President and  
General Counsel

ACD nmd  
Enclosures

FIRST SUPPLEMENT dated as of July 15, 1980 to Equipment Trust Agreement dated as of June 1, 1979, as amended by an Amendment dated as of December 7, 1979, an Amendment Agreement Number Two dated as of December 16, 1979 and a Third Amendment dated as of April 15, 1980 [and a Fourth Amendment dated as of June 1, 1980] and as supplemented by a Waiver dated as of January 10, 1980 and a Waiver dated as of March 1, 1980 (as so amended and supplemented, the "Equipment Trust Agreement") between MORGAN GUARANTY TRUST COMPANY OF NEW YORK, as Trustee (the "Trustee"), and BRAE CORPORATION (the "Company").

RECORDATION NO. 106304 Filed 1980

Recitals

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INTERSTATE COMMERCE COMMISSION

A. The Lease Agreement ("Present Lease") dated as of July 13, 1979 between the Company and Columbia & Cowlitz Railway Company ("Present Lessee") covers 100 units of Trust Equipment.

B. The Present Lease has been assigned to the Trustee as security under the Equipment Trust Agreement. Section 4.09 of the Equipment Trust Agreement gives the Company the right to terminate leases assigned to the Trustee (including the Present Lease) and to re-lease the units of Trust Equipment covered by such leases, if certain conditions are met.

C. The Company and the Present Lessee have agreed to terminate the Present Lease, to the extent that it relates to 50 units of Trust Equipment (the "Designated Units"), and has entered into a Lease Agreement dated as of July 2, 1980 (the "New Lease") with Texas Oklahoma & Eastern RR Co. (the "New Lessee") for the Designated Units (which upon their delivery under the New Lease will bear the identification numbers TOE 3551 - TOE 3600, both inclusive).

THE PARTIES AGREE AS FOLLOWS:

1. All terms defined in the Equipment Trust Agreement which are not otherwise defined herein shall in this Supplement have the meanings which are defined in the Equipment Trust Agreement.

2. Schedule A to the Equipment Trust Agreement is hereby deleted in its entirety and replaced by Schedule A attached to this Supplement.

3. The Company represents and warrants to the Trustee for its benefit and for the benefit of the Original Purchaser, as follows:

(i) the New Lessee does not have its principal place of business in, nor is it incorporated in, the Dominion of Canada or any Province or Territory thereof or the State of California;

(ii) the aggregate number of railroad boxcars constituting Trust Equipment which will be subject to the New Lease does not exceed 50% of the boxcar requirements of the New Lessee (determined in good faith by the Company by the application of customary standards and measurements at the time the Company signed the New Lease);

(iii) the termination of the Present Lease as it relates to the Designated Units, and the execution of the New Lease for the Designated Units, will not impair the security provided under the Equipment Trust Agreement by the assignment to the Trustee of the leases covering the Trust Equipment.

(iv) the term of the New Lease is at least equal to the remaining term of the Present Lease and the projected amount of rentals payable under the New Lease is at least equal to that required for the New Lease to qualify as a "Lease", as defined in Article I of the Equipment Trust Agreement;

(v) the New Lease constitutes a "Lease" as so defined;  
and

(vi) the Company has heretofore delivered to the Trustee and the Original Purchaser a true and complete copy of the New Lease, as executed.

4. Pursuant to Section 6.03 of the Equipment Trust Agreement, the Company shall at its expense cause this Supplement, the New Lease and a Lease Assignment relating to the New Lease to be filed with the Interstate Commerce Commission pursuant to 49 U.S.C. §11303, as soon as possible.

5. When the Company has identified the specific 50 units of Trust Equipment which constitute the Designated Units, the Company will execute and present to the Trustee for execution, and the Trustee shall execute upon Request a further supplement to each of the Equipment Trust Agreement, the Present Lease and the Lease Assignment relating to the Present Lease to delete from the coverage thereof the identification numbers of the Present Lessee for the Designated Units. Thereupon the Company shall promptly file each of such supplements with the Interstate Commerce Commission pursuant to 49 U.S.C. §11303.

6. The Company will deliver to the Trustee promptly after completing each of the filings referred to in paragraphs 4 and 5

of this Supplement the Opinion of Counsel required by the second paragraph of Section 6.03 of the Equipment Trust Agreement.

7. Except as supplemented hereby, the Equipment Trust Agreement shall remain in full force and effect.

8. This Supplement may be executed in any number of counterparts, each of which shall be deemed an original but all of which when taken together shall constitute a single instrument. All of the parties need not sign the same counterpart provided that each party signs at least one counterpart.

9. The provisions of this Supplement and all rights and obligations of the parties hereunder shall be governed by the laws of the State of New York.

IN WITNESS WHEREOF, the Company and the Trustee have caused their names to be signed hereto by their respective officers hereunto duly authorized and their corporate seals duly attested to be hereunto affixed as of the date first above written.

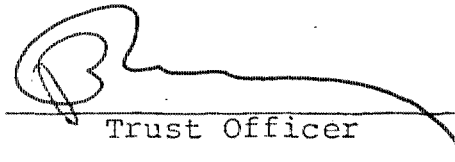
[Corporate Seal]

Attest:

  
\_\_\_\_\_  
Assistant Secretary

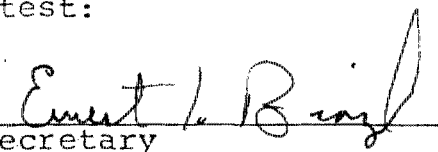
MORGAN GUARANTY TRUST COMPANY  
OF NEW YORK, as Trustee

By:

  
\_\_\_\_\_  
Trust Officer

[Corporate Seal]

Attest:

  
\_\_\_\_\_  
Secretary

BRAE CORPORATION

By:

  
\_\_\_\_\_  
Vice President

# SCHEDULE A

<u>Lessee</u>	<u>No. of Boxcars</u>	<u>Date of Leases</u>	<u>Term</u>	<u>Equipment Identification Numbers (Both Inclusive)</u>	<u>Description</u>	<u>AAR Mechanical Designation</u>
1. Rail- road Con- sultants*	50	December 1, 1978	Approx- imately 15 years	UO 1500- UO 1549	50'6", 70-ton	XM
2. Berlin Mills Rail- way, Inc.	300	November 2, 1978	Approx- imately 15 years	RMS 00201- RMS 00500	50'6", 70-ton	XM
3. Columbia & Cowlitz Railway Company	50	July 13, 1979	Approx- imately 15 years	CLC 3401-** CLC 3500	52'6"	XP
4. South Branch Valley Rail Road	50	April 30, 1979	Approx- imately 15 years	SBVR 2001- SBVR 2050	50'6", 70-ton	XM
5. Michigan Interstate Railway Company	100	December 20, 1978	Approx- imately 15 years	AA 5100- AA 5199	50'6", 70-ton	XM
6. Texas Oklahoma & Eastern RR Co.	50	July <u>2</u> , 1980	Approx- imately 15 years	TOE <u>3551</u> -** TOE <u>3600</u>	52'6"	XP

\* Railroad Consultants has subleased the boxcars by sublease dated December 1, 1978, to Union Railroad of Oregon.

\*\* Fifty of the boxcars bearing the identification numbers CLC 3401-CLC 3500 are being remarked with the identification numbers TOE 3551 - TOE 3600 .

STATE OF NEW YORK )  
 ) ss.:  
COUNTY OF NEW YORK )

On the 2 of <sup>Oct</sup>~~July~~, 1980, before me personally came  
P. J. Crooks, to me known, who, being by me duly  
sworn, did depose and say that he resides at  
Lambertville, New Jersey 08530; that he is a Trust  
Officer of MORGAN GUARANTY TRUST COMPANY OF NEW YORK, one of the  
corporations described in and which executed the above amendment;  
that he knows the corporate seal of said corporation; that the  
seal affixed to said amendment is such corporate seal; that it was  
so affixed by the authority of the Board of Directors of said  
corporation; and that he signed his name thereto by like authority.

[Notarial Seal]

Sue Scalcione  
Notary Public

SUE SCALCIONE  
NOTARY PUBLIC, State of New York  
No. 81-4649545  
Qualified in New York County  
Commission Expires March 30, 1981

STATE OF CALIFORNIA )  
 ) ss.:  
CITY AND COUNTY OF SAN FRANCISCO )

On the 30th of July, 1980, before me personally came  
Alfred C. Dessa, to me known, who, being by me duly  
sworn, did depose and say that he resides at  
Hillsborough, California; that he is a Vice  
President of BRAR CORPORATION, one of the corporations described  
in and which executed the above amendment; that he knows the  
corporate seal of said corporation; that the seal affixed to said  
amendment is such corporate seal; that it was so affixed by  
authority of the Board of Directors of said corporation; and that  
he signed his name thereto by like authority.

[Notarial Seal]

Mirella R. Abbo  
Notary Public

